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THAR BE TREASURE HERE: RIGHTS TO ANCIENT SHIPWRECKS IN INTERNATIONAL WATERS—A NEW POLICY REGIME

I. INTRODUCTION

Who owns the remains and contents of ancient shipwrecks found on the high seas?¹ The finder? The nation under whose flag the sunken ship originally sailed? The culture from which the wreck and artifacts originated? With the discovery of the RMS *Titanic* in 1985, a flurry of academic activity arose addressing the ambiguities of the maritime laws concerning wrecks and salvage.² A debate ensued over the ownership of new wrecks, which were being recovered from greater and greater depths.³ Treasure hunters⁴ who found the wrecks were placed at odds with governments that claimed title.⁵ In addition, a movement arose advocating the idea of “cultural property,” whereby these ancient wrecks belonged either to the whole of humanity or to the culture from whence they originated, mooted the issue of title for the finder.⁶ The most recent international attempt to overhaul the system, the United Nations Convention on the Law of the Sea,⁷ did little to resolve the ambiguity of

1. The high seas include “all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of any State, or in the archipelagic waters of any archipelagic State.” United Nations Convention on the Law of the Sea, art. 86, Dec. 10, 1982, 1833 U.N.T.S. 397, 21 I.L.M. 1261 [hereinafter UNCLOS].

2. The discovery of the *Titanic* brought a resurgence of interest in the laws of salvage and finds. See THOMAS J. SCHOENBAUM, ADMIRALTY AND MARITIME LAW 844 n.1 (4th ed. 2004) (citing numerous articles on this topic).

3. See H. Peter Del Bianco, Jr., Note, *Underwater Recovery Operations in Offshore Waters: Vying for Rights to Treasure*, 5 B.U. INT’L L.J. 153, 153–58 (1987) (presenting the different groups vying for rights to underwater wrecks); see also SCHOENBAUM, *supra* note 2, at 844 n.1, for additional articles addressing the complex issues arising from the discovery of underwater wrecks.

4. The term “treasure hunters” encompasses a number of different groups. In addition to privately funded ventures (such as Mel Fisher’s recovery of the *Nuestra Señora de Atocha*), there are now publicly held companies that specialize in deep-water shipwreck searches, recovery, and marketing. See, e.g., *infra* note 33 (describing one such for-profit company, Odyssey Marine Exploration). Scientists and researchers also have an interest in the discovery and recovery of ancient shipwrecks, but the term “treasure hunters” may not be the appropriate moniker.

5. Del Bianco, *supra* note 3, at 155–56.

6. See *infra* Part VI for a discussion of cultural property and the implications for treasure recovery.

7. UNCLOS, *supra* note 1. Although the United States has not ratified UNCLOS, U.S. courts follow the framework codified in UNCLOS when adjudicating shipwreck ownership claims. See *infra* Part IV. The refusal to ratify is premised upon concerns that UNCLOS would inhibit national security.

wreck ownership. Many wrecks were then, and indeed are still, subjected to the vagaries of protracted litigation.⁸ Although many ideas were presented to create UNCLOS, the law remains in need of reform.⁹

In the wake of the influx of new ideas into this antiquated area of law, little has changed. More than twenty years since the *Titanic* was found, we are no closer to a uniform treatment of wrecks that would alleviate the need for costly litigation. The current case of *Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel*¹⁰ demonstrates the high stakes involved in such litigation and highlights the need to resolve the issue of ownership for ancient wrecks found in international waters.¹¹ In this lawsuit, Odyssey Marine Exploration¹² and the Kingdom of Spain are battling in U.S. federal court, in the middle district of Florida, over the rights to a wreck whose treasure is estimated at a value of \$500 million.¹³

In cases adjudicated by U.S. federal courts, a new policy is needed.¹⁴ Since wrecks found in international waters are not subject to the sovereignty of any nation, an international structure¹⁵ is needed to replace national sovereignty. Through such a structure, U.S. federal courts can adjudicate the rights of parties who assert their ownership claims in that forum.¹⁶ This new regime should strive to (1) alleviate the burdens of litigation by clarifying the issue of ownership in ancient wrecks, (2) create incentives for the retrieval and preservation of ancient wrecks, and (3) provide a mechanism for the repatriation of ancient cultural property to the rightful nations.

Part III of this Note will use the current case of *Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel*¹⁷ as an exemplar to

See Kevin Drawbaugh, *U.S. Senate panel backs Law of Sea treaty*, REUTERS, Oct. 31, 2007, <http://www.reuters.com/article/latestCrisis/idUSN31335584>.

8. See, e.g., *infra* note 19 (discussing the litigation surrounding the discovery of the RMS *Titanic*).

9. UNCLOS contains 320 articles, in addition to the provisions contained in the annexes, addressing issues ranging from environmental protections to marine research to navigational markings requirements. UNCLOS, *supra* note 1.

10. No. 8:07-CV-00616 (M.D. Fla. filed Apr. 9, 2007).

11. See UNCLOS, *supra* note 1, art. 86, for a definition of high seas. This Note uses the terms “high seas” and “international waters” interchangeably.

12. See *infra* note 33, for a brief description of Odyssey Marine Exploration.

13. See *infra* note 34, for an estimate of the value of Odyssey’s find.

14. Federal courts have jurisdiction over such cases brought in the United States. See U.S. CONST. art. III, § 2.

15. The ideal international structure is an amendment to the current UNCLOS treaty. See discussion *infra* Part VII.

16. See UNCLOS, *supra* note 1, art. 89 (stating that no state can subject “any part of the high seas to its sovereignty”).

17. No. 8:07-CV-00616 (M.D. Fla. filed Apr. 9, 2007).

address the current state of the maritime law used in the United States and embodied in the United Nations Convention on the Law of the Sea. Specifically, it will address shipwrecks located in international waters. Part IV examines the law of salvage and the law of finds while Part V discusses the present statutory mechanisms that determine ownership in situations other than wrecks on the high seas. After highlighting the shortcomings in the present state of the law, Part VI examines the arguments in favor of and against a theory of cultural property. Finally, Part VII presents policy recommendations for an amendment to the UNCLOS Treaty that addresses the three goals listed above while balancing the interests of the various parties vying for ownership rights.

II. THE CONFLICT

Whenever a wreck is discovered and recovered on the high seas, conflict may arise between the various parties who might wish to assert ownership claims. Such discoveries often prompt litigation to determine ownership rights to wrecks and their contents.¹⁸ Litigation is both costly and time consuming.¹⁹ The costs of litigation add to the already expensive costs of mounting an expedition to find and recover these wrecks.²⁰

Because of ambiguities in the law, as interpreted by U.S. federal courts, multiple parties may assert ownership claims: The first finder may assert claims against subsequent finders; the previous owner may assert a claim against the finder; and, depending upon the location and nation of origin of the wreck, national or state governments may assert ownership claims.²¹

18. For a comprehensive survey of a variety of different cases, see SCHOENBAUM, *supra* note 2, at 849 n.32.

19. The remains of the RMS *Titanic* were discovered in 1985, but lawsuits concerning that discovery persist to this day. *See, e.g., R.M.S. Titanic, Inc. v. Wrecked & Abandoned Vessel*, 435 F.3d 521 (4th Cir. 2006).

20. "[D]eep-water survey instruments remain the province of high-powered research organizations and well-sponsored private companies." Roderick Mather, *Technology and the Search for Shipwrecks*, 30 J. MAR. L. & COM. 175, 182 (1999). For example, the *Mary Rose* cost \$7 million to recover, while the *Atocha* cost \$2 million and four lives. Timothy T. Stevens, *The Abandoned Shipwreck Act of 1987: Finding the Proper Ballast for the States*, 37 VILL. L. REV. 573, 591, 585 (1992).

21. *See, e.g., Treasure Salvors, Inc. v. Unidentified Wrecked & Abandoned Sailing Vessel*, 569 F.2d 330 (5th Cir. 1978) (awarding title to the finder when the United States government asserted title to a Spanish vessel found outside of American territorial waters). For a comprehensive survey of various conflicts, see Stevens, *supra* note 20, at 575–77 & n.8. For wrecks found within the territorial waters of a nation, national laws can potentially dictate ownership rights. For example, the Abandoned Shipwreck Act grants to the United States title to all abandoned shipwrecks found with the territorial waters of the United States. 43 U.S.C. § 2105 (2000). *See discussion infra* Part V.

Although numerous parties may have standing to assert claims under the current law, many others with putative claims are without recourse.

In addition to owners, finders, and governments, others often wish to protect and preserve shipwrecks for their non-market value to science and to society. Shipwrecks can have non-monetary value in the form of cultural or archaeological worth.²² Archaeologists and salvors disagree over the proper methods to use in salvage in order to preserve shipwrecks' archaeological value.²³ "At the center of this conflict is a difference in preference between preserving historic shipwrecks on the sites where they are discovered and the belief that shipwrecks are in 'marine peril' and need to be salvaged to be protected."²⁴

Besides those who wish to protect shipwrecks for their scientific value, many assert that shipwrecks represent cultural property in one form or another.²⁵ For proponents of a cultural property classification, litigation is inadequate because they lack standing. However, specially created statutes and treaties have been used as a means to protect certain wrecks from the ownership claims of other claimholders.²⁶ For example, Congress passed special legislation to protect the wrecked RMS *Titanic*.²⁷ Specially passed laws are usually the most effective means of redress concerning the disposition of shipwrecks in international waters for proponents of cultural property.²⁸ Unfortunately, these means are often cumbersome.²⁹

22. See *infra* note 157 (discussing the different values archaeologists and treasure hunters ascribe to the same objects).

23. See D. K. Abbass, *A Marine Archaeologist Looks at Treasure Salvage*, 30 J. MAR. L. & COM. 261, 261 (1999). Abbass, an archaeologist himself, raises the issue of the different standards employed by salvors and archaeologists. "What non-archaeologists may see as overly fastidious, we see as a commitment to the public benefits of good science." *Id.* at 262. Among other complaints raised by archaeologists, there are concerns that salvors' needs to quickly maximize profits lead to sacrifices in scientific methodology and that the study of artifacts cannot continue once they have been sold to private collections. *Id.* at 263.

24. Ole Varmer, *The Case Against the "Salvage" of Cultural Heritage*, 30 J. MAR. L. & COM. 279, 279 (1999). See *infra* notes 58–59 and accompanying text (discussing "marine peril").

25. See *infra* Part VI (discussing the cultural property perspective).

26. See, e.g., Agreement concerning the wreck of the CSS *Alabama*, U.S.-Fr., Oct. 30, 1989, T.I.A.S. No. 11687, available at http://untreaty.un.org/unts/120001_144071/19/6/00015793.pdf (calling for joint administration of the CSS *Alabama* wreck, located in French waters).

27. R.M.S. *Titanic* Maritime Memorial Act of 1986, 16 U.S.C. § 450rr (2000). The Act provides that the United States will enter into negotiations with other nations to develop an agreement which designates R.M.S. *Titanic* as an international maritime memorial. *Id.* § 450rr-4(a). One purpose served by this is to protect the site from activities which would alter, disturb, or salvage the vessel. *Id.* § (b)(4). The Act specifically denies that the United States has any sovereignty over the site or property. *Id.* § 450rr-6. Thus, the Act only applies to United States citizens. The primary mechanism of the Act is the provision requiring the U.S. government to negotiate an international protective measure. *Id.* § 450rr-3(a).

28. Lawrence J. Kahn, Comment, *Sunken Treasures: Conflicts Between Historical Preservation Law and the Maritime Law of Finds*, 7 TUL. ENVTL. L.J. 595, 638 (1994). Since the current litigation

There are presently a number of conflicts between those parties currently represented in litigation and those wishing to assert a voice.³⁰ The existing litigation structure does not afford standing to all potential stakeholders.³¹ To better accommodate all parties, the international community should reform the current legal framework for resolving ownership claims to shipwrecks in international waters.

III. CASE STUDY BACKGROUND

In March of 2007, an American shipwreck exploration company located what could be the most valuable find of treasure to date.³² In a story that evokes images of buccaneers and swashbucklers on the high seas, Odyssey Marine Exploration³³ revealed that it had recovered a treasure-trove of coins and artifacts that may potentially be worth hundreds of millions of dollars.³⁴ After maintaining complete secrecy throughout its operation, Odyssey recovered an unknown amount of treasure and transported it back to the United States.³⁵ Odyssey has neither

framework only recognizes claims by finders, owners, or governments, proponents of cultural property must resort to other means to secure their objectives. "It is clear that the best protection the government can offer a sunken vessel in international waters is a statute that protects the shipwreck from American salvors and obligates the government to enter into treaties with foreign nations to respect the archaeological value of the wreck." *Id.*

29. The R.M.S. Titanic Maritime Memorial Act of 1986 is an example of the cumbersome nature of these special statutes. 16 U.S.C. § 450rr; *see supra* note 27. No nation may subject any portion of the high seas to its sovereignty. UNCLOS, *supra* note 1, art. 89. In order to protect a particular wreck, Congress would need to pass a preservation law specific to that site. *See, e.g.*, 16 U.S.C. § 450rr. Such a law would only be enforceable against American citizens. To achieve international protection, the law would additionally require that the United States enter into negotiations with other nations to enact similar laws against their respective citizens. *See, e.g.*, 16 U.S.C. § 450rr-3(a). This process would need to be repeated for each shipwreck with each foreign nation.

30. *See generally* Abbass, *supra* note 23, for a thoughtful discussion of the archaeologists' perspectives.

31. *See, e.g.*, Editorial, *Whose Treasure Is It Really?*, N.Y. TIMES, Sept. 4, 2007, at A18 (discussing the possible claims by Spain's former colonies, such as Peru).

32. Terry Aguayo, *A Bountiful Undersea Find, Sure to Invite Debate*, N.Y. TIMES, May 19, 2007, at A9.

33. Odyssey Marine Exploration ("Odyssey") is an American company founded in 1994, which went public in 1997. Odyssey Marine Exploration Company Overview, <http://shipwreck.net/companyoverview.html> (last visited May 8, 2008). Odyssey currently trades on the NASDAQ Stock Market under the symbol OMEX. *Id.* The company specializes in commercial deep-water shipwreck search, recovery, and marketing. *Id.*

34. Although Odyssey has not announced the value of the find, it is speculated to be worth around \$500 million. Greg Allen, *Mystery, Legal Fight Surround Shipwreck Treasure*, ALL THINGS CONSIDERED, NATIONAL PUBLIC RADIO, July 5, 2007, <http://www.npr.org/templates/story/story.php?storyId=11759831>.

35. Aguayo, *supra* note 32. The company's secrecy is so great that the wreck is referred to only by its code name, "Black Swan." Allen, *supra* note 34. According to Greg Stemm, one of Odyssey's

identified the wreck nor revealed its location.³⁶ All that has been said is that the wreck lies at a depth of 1100 meters in international waters, approximately 100 miles west of the Straits of Gibraltar.³⁷ Although Odyssey has remained silent on the point, the sunken vessel is rumored to be the Spanish frigate *Nuestra Señora de las Mercedes*, which was sunk by British warships in 1804.³⁸

Upon announcing its find, Odyssey filed an action in United States District Court for the Middle District of Florida seeking a declaratory judgment naming Odyssey as the “true, sole and exclusive owner of the Abandoned Shipwrecked Vessel and any items recovered therefrom.”³⁹ In response to Odyssey’s filing, the Kingdom of Spain intervened, asserting ownership of the wreck and its contents in the event that the ship is determined to be a Spanish vessel.⁴⁰ The issue of ownership will likely remain mired in federal court for some time. Given the great expense of undersea exploration and recovery, and the high value of this find, Odyssey clearly has a very large stake in the outcome.⁴¹

founders, “The only thing we’re saying right now is that we’ve really recovered about a half-million coins, and a number of artifacts that are from the colonial period . . . that were in the Atlantic Ocean.” Allen, *supra* note 34.

36. Aguayo, *supra* note 32.

37. Verified Complaint in Admiralty in Rem para. 2, Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel, No. 8:07-CV-00616 (M.D. Fla. Apr. 9, 2007) [hereinafter “Verified Complaint”].

38. John Ward Anderson, *Will Finders Be Keepers of Salvaged Treasure?*, WASH. POST, Aug. 27, 2007, at A1. The *Nuestra Señora de las Mercedes* allegedly went down somewhere south of Portugal’s Cape St. Mary with more than a million freshly minted silver dollars aboard. *Id.*

39. Verified Complaint, *supra* note 37, para. (c). In addition, Odyssey sought a declaratory judgment that the wreck was subject to either the law of finds or the law of salvage, as well as a declaratory judgment that no government had the jurisdiction or authority to interfere with Odyssey’s exploration and recovery of the wreck. *Id.* paras. (a), (b). In the alternative, in the event that another party was adjudged to be owner, Odyssey sought a salvage award. *Id.* para. (d).

40. Verified Claim of the Kingdom of Spain, Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel, No. 8:07-CV-00616 (M.D. Fla. Apr. 9, 2007) [hereinafter “Verified Claim”]. Spain has a standing policy of nonabandonment for all of its shipwrecked vessels around the world. Spain has stated that:

In accordance with Spanish and international law, Spain has not abandoned or otherwise relinquished its ownership or other interests with respect to such vessels and/or its contents, except by specific action pertaining to particular vessels or property taken by Royal Decree or Act of Parliament in accordance with Spanish law

The Embassy of Spain accordingly wishes to give notice that salvage or other disturbance of sunken vessels or their contents in which Spain has such interests is not authorized and may not be conducted without express consent by an authorized representative of the Kingdom of Spain.

Protection of Sunken Warships, Military Aircraft, and Other Sunken Government Property, 69 Fed. Reg. 5647 (Feb. 5, 2004).

41. Unlike the relatively inexpensive techniques and technologies used for shallow-water searches, “deep-water survey instruments remain the province of high-powered research organizations

That the discovery by Odyssey has resulted in litigation is not surprising given the ambiguities in maritime and salvage law. Odyssey anticipated such litigation when it recovered the wreck.⁴² Some have argued that the lawsuit fails to include all the parties who might wish to assert a claim, such as the nations in which the treasure coins were mined and minted.⁴³ However, within the current legal framework, there is no mechanism whereby such a claim could be asserted.⁴⁴ For now, the parties in this case are limited to Odyssey and the Kingdom of Spain, both vying for title to the deep-sea treasure.⁴⁵

The outcome of Odyssey's case will depend largely upon whether the court decides to apply the law of finds or the law of salvage.⁴⁶ The court's decision will affect whether Odyssey will be vested with title to the wreck and treasure or whether it will be entitled to possession and a salvage award. The necessity of such costly legal wrangling highlights the need for reform in this antiquated area of law.

IV. LAW OF SALVAGE VS. LAW OF FINDS

The laws of salvage and finds provide two different methods for rewarding those who set out to recover shipwrecks. The determination of which law applies will impact the manner in which a finder/salvor is compensated for his or her efforts. The two laws cannot be simultaneously applied because, according to the Fourth Circuit, "The doctrines serve

and well-sponsored private companies." Mather, *supra* note 20, at 182.

42. According to an Odyssey statement,

We do believe that most shipwrecks we recover, including the "Black Swan," will likely result in claims by other parties. Many will be spurious claims, but we anticipate that there might be some legitimate ones as well. In the case of the "Black Swan," it is the opinion of our legal counsel that even if a claim is deemed to be legitimate by the courts, Odyssey should still receive title to a significant majority of the recovered goods.

Odyssey Marine Exploration, Odyssey Provides "Black Swan" Shipwreck Information Update (May 21, 2007), available at <http://shipwreck.net/pr135.html>.

43. Editorial, *supra* note 31. This editorial suggests that Spain's former colonies in Latin America be permitted to assert ownership claims over the treasure, under the theory that the treasure was likely looted from these colonies. *Id.* Such arguments are based upon a theory of cultural property. See discussion *infra* Part V.

44. Under the finds/salvage dichotomy, the court will either grant title to the finder or affirm the property rights of the known owner. Since the wreck is located on the high seas, there are no applicable national laws which affect ownership rights. Within such a framework, there is no means by which proponents of cultural property can establish standing. See *infra* Part VI.

45. Spain's claim is premised on the possibility that the vessel is Spanish. If the vessel is found to be a Spanish ship that was owned by the government of Spain at the time it sank, then Spain could have a claim as the successor owner of the vessel.

46. See *infra* Part IV for a discussion of the law of finds and the law of salvage; see also *infra* notes 57 and 67 and accompanying text for lists of the elements required to apply the two areas of law.

different purposes and promote different behaviors.”⁴⁷ The law of salvage “gives potential salvors incentives to render voluntary and effective aid to people and property in distress,” while the law of finds “expresses the acquisitive principle of finders, keepers.”⁴⁸ What differentiates the two doctrines is the disposition of ownership. Under the law of salvage, the salvor is entitled to possession of the property and an award, but not title.⁴⁹ In contrast, the law of finds vests the finder with title to the property that he or she finds and recovers.⁵⁰

The determination of which law applies to a shipwreck rests upon whether the property can be considered “abandoned” in the legal sense of the term. It is not sufficient that the crew of a sinking vessel decided to “abandon ship” and is thus no longer in possession or control of the vessel. More is needed for a court to rule that a shipwreck is abandoned, but how much more and what facts are needed is unclear. The legal test for abandonment in the context of shipwreck discoveries is ambiguous.⁵¹ As a result, application of the law of salvage or the law of finds is unpredictable.

A. *Salvage*

A primary concern of salvage law is the preservation and protection of property on oceans and waterways.⁵² To this end, the law of salvage is directed toward creating incentives for salvors to recover wrecks. Salvage law “gives potential salvors incentives to render voluntary and effective aid to people and property in distress at sea.”⁵³ The courts may reward a salvor’s successful efforts by authorizing a salvage award to be drawn from the proceeds of the sale of the salvaged property.⁵⁴ “Without some promise of remuneration, salvors might understandably be reluctant to

47. *R.M.S. Titanic, Inc. v. Wrecked & Abandoned Vessel*, 435 F.3d 521, 531–32 (4th Cir. 2006).

48. *Id.*

49. SCHOENBAUM, *supra* note 2, at 839, 851.

50. *Id.* at 851.

51. See generally John Paul Jones, *The United States Supreme Court and Treasure Salvage: Issues Remaining After Brother Jonathan*, 30 J. MAR. L. & COM. 205 (1999), for a discussion of the ambiguities that remain in determining abandonment after the Supreme Court’s decision in *California v. Deep Sea Research, Inc.*, 523 U.S. 491 (1998). For example, there is a split between circuits regarding the question of whether lapse of time is sufficient to infer abandonment. Jones, *supra*, at 214–15.

52. SCHOENBAUM, *supra* note 2, at 851.

53. *R.M.S. Titanic, Inc. v. Wrecked and Abandoned Vessel*, 435 F.3d 521, 531 (4th Cir. 2006).

54. SCHOENBAUM, *supra* note 2, at 839. “The court has discretion to fix the [salvage] award, upon consideration and weighing the benefit conferred upon the property owner and the risks of the salvage operation.” *Id.*

undertake the often dangerous and costly efforts necessary to provide others with assistance.”⁵⁵ The value of the salvage award can be as high as the value of the property saved, but cannot exceed that value.⁵⁶

In order to apply the law of salvage, three elements must be present: (1) marine peril, (2) voluntary service, and (3) successful recovery.⁵⁷ There is, however, no consensus as to what constitutes marine peril. Logically, it would seem that a shipwreck, having already sunk or been lost, is past the point of facing marine peril. However, “peril” can still exist because “[m]arine peril includes more than the threat of storm, fire, or piracy to a vessel in navigation.”⁵⁸ Once a shipwreck is found, the risk of being lost again is threatening enough to constitute a marine peril.⁵⁹

The remaining two elements are easily established and require little explanation. The second element, voluntary service, simply requires that the salvor not be under any preexisting duty to render aid.⁶⁰ The final element, successful recovery, merely requires that a salvor demonstrate some degree of success. Successful recovery does not require recovery of the entirety of the lost property, but rather recovery of any property.⁶¹

B. Finds

Finds law is primarily concerned with title to the found property.⁶² “The common law of finds treats property that is abandoned as returned to

55. *R.M.S. Titanic*, 435 F.3d at 531. “The policy of the law is to grant salvage awards that encourage seamen and others to incur risk to go to the aid of vessels in distress, but to avoid windfalls of unreasonable extravagance.” SCHOENBAUM, *supra* note 2, at 840.

56. SCHOENBAUM, *supra* note 2, at 840.

57. In order to assert a valid salvage claim,

(1) there must be a marine peril placing the property at risk of loss, destruction, or deterioration; (2) the salvage service must be voluntarily rendered and not required by an existing duty or by special contract; and (3) the salvage efforts must be successful, in whole or in part.

SCHOENBAUM, *supra* note 2, at 833.

58. *Treasure Salvors, Inc. v. Unidentified Wrecked & Abandoned Sailing Vessel*, 569 F.2d 330, 337 (5th Cir. 1978).

59. *Id.* But see Varmer, *supra* note 24, at 280–81, for the premise that the recovery efforts themselves subject a wreck to marine peril. “Exploration which involves disturbing the seabed as well as any subsequent salvage actually places the site in marine peril.” *Id.* at 281. Varmer instead advocates “on-site preservation,” contradicting the claim that a shipwreck is in marine peril by virtue of being on the bottom of the ocean. *Id.* at 287–95. No court yet accepts this argument.

60. SCHOENBAUM, *supra* note 2, at 833. An example where this element is not met is if the salvor is engaged by contract to recover a shipwreck for a specified price. The salvor cannot render the service and then demand a salvage award from a court. The duty imposed by the contract violates the element of voluntary service.

61. *Id.*

62. *Id.* at 849.

the state of nature and thus equivalent to property, such as fish or ocean plants, with no prior owner.”⁶³ Accordingly, under finds law, ancient wrecks are treated as having no prior owner.⁶⁴ However, some courts are hesitant to apply the law of finds in the context of ancient shipwrecks.⁶⁵ “Admiralty favors the law of salvage over the law of finds because salvage law’s aims, assumptions, and rules are more consonant with the needs of marine activity and because salvage law encourages less competitive and secretive forms of conduct than finds law.”⁶⁶

In order to apply the law of finds in the context of shipwrecks, three elements must be present: (1) intent to reduce property to possession, (2) actual possession, and (3) abandonment.⁶⁷ Usually, the first two elements are easily shown. Actual possession does not require that a finder recover the entire wreck; the recovery of a single item from a wreck can be sufficient to show possession.⁶⁸

The final element, abandonment, often determines whether the law of salvage or the law of finds will apply. “Abandonment under the law of finds must be shown by clear and convincing evidence.”⁶⁹ This requirement is usually satisfied by either an express statement of abandonment by an owner or, in the case of ancient shipwrecks, a lack of intervention by anyone claiming ownership.⁷⁰ However, in the case of ancient shipwrecks, courts may not find abandonment.⁷¹ With ancient

63. *Hener v. United States*, 525 F. Supp. 350, 354 (S.D.N.Y. 1981).

64. *R.M.S. Titanic, Inc. v. Wrecked & Abandoned Vessel*, 435 F.3d 521, 532 (4th Cir. 2006) (“More recently, the doctrine has been applied to long-lost or abandoned shipwrecks, which, having once been owned, are no longer the property of anyone and so revert to the state of nature.”).

65. *Id.* at 531 (“The law of finds, however, is a disfavored common-law doctrine rarely applied to wrecks and then only under limited circumstances.”).

66. *Hener*, 525 F. Supp. at 356.

67. *R.M.S. Titanic*, 435 F.3d at 532 n.3 (“To establish a claim under the law of finds, a finder must show (1) intent to reduce property to possession, (2) actual or constructive possession of the property, and (3) that the property is either unowned or abandoned.”).

68. In addition to showing possession, courts can establish in rem jurisdiction when a finder brings a portion of the recovered property into the jurisdiction of the court and allows the court to take custody of that property. This is based upon the legal fiction that the property is indivisible; therefore, if part of the property is within the jurisdiction of the court, then it all must be. Under this fiction, federal courts are able to exercise in rem jurisdiction over shipwrecks located around the world. See SCHOENBAUM, *supra* note 2, at 846–47, for a discussion of national jurisdiction issues.

69. *Id.* at 849.

70. *Id.*; see also *Adams v. Unione Mediterranea Di Sicurtà*, 220 F.3d 659, 671 (5th Cir. 2000) (discussing the actions necessary to affirmatively release title and thus abandon property under the law of finds). “The owner of the distressed goods on navigable waters does not lose title even though the property may become the subject of salvage services.” *Id.* at 670–71.

71. See, e.g., *United States v. Steinmetz*, 973 F.2d 212 (3d Cir. 1992) (holding that the United States retained title to the *CSS Alabama*, which sank off the coast of France in 1864). The United States never officially abandoned the vessel. *Id.* at 223 n.13.

wrecks, the inference of abandonment arises only because it is not possible to ascertain the present successor to the owner. If an owner expressly abandons title,⁷² then there is no dispute that the law of finds applies. But such cases are rare. If an owner attempts to intervene and claim ownership, then the law of finds is inappropriate.⁷³

Use of the law of finds presents potential advantages over the law of salvage because finds law creates different incentives. “[T]he maritime law of finds vests title to persons who reduce to their possession objects which have been abandoned at sea.”⁷⁴ One potential benefit is the incentive to put lost property back to productive use.⁷⁵ By granting title to the finder, the law of finds might increase the incentive to search for long-lost or abandoned property. Property that is subject to the law of finds is, by definition, abandoned. Because of this abandonment, there is a reasonable assumption that the true owner will not search for the property. Without an incentive to find the property, it might never be recovered to be put to use.

Use of the law of finds may also raise concerns about the expected behavior of potential finders. “A would-be finder should be expected to act acquisitively, to express a will to own by acts designed to establish the high degree of control required for a finding of possession.”⁷⁶ Courts have expressed concern for the aggressive behavior that may result from application of the law of finds.⁷⁷ “Would-be finders are encouraged by these rules to act secretly, and to hide their recoveries, in order to avoid claims of prior owners or of other would-be finders that could entirely deprive them of the property.”⁷⁸ While such aggressive behavior can raise

72. In such a context, a party may show express abandonment by a “clear and unmistakable affirmative act indicat[ing] a purpose to repudiate ownership.” *Columbus-Am. Discovery Group v. Atl. Mut. Ins. Co.*, 974 F.2d 450, 461 (4th Cir. 1992).

73. See *SCHOENBAUM*, *supra* note 2, at 849.

74. *Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel or Vessels*, No. 8:06-cv-1685-T-23TBM, 2006 WL 3091531, at *3 (M.D. Fla. Oct. 30, 2006).

75. Implicit in the rationale behind the law of finds is the notion that property sitting on the bottom of the ocean is not being productively used; however, an archaeologist might dispute this claim, on the grounds that such property is invaluable for study specifically because it is located on the bottom of the ocean. See *Abbass*, *supra* note 23, at 262.

76. *Hener v. United States*, 525 F. Supp. 350, 356 (S.D.N.Y. 1981).

77. See *supra* note 66 and accompanying text. Awarding title to the first finder to reduce the property to possession creates an incentive to act in a manner which prevents other potential finders from finding the property. If the primary concern is the location and recovery of lost shipwrecks, then such behavior might be detrimental. It might divert resources from the tasks of search and recovery and instead direct them toward maintaining secrecy and quelling competition. On the other hand, such incentives might create a free market, where the most adept finders are rewarded for their skill and acumen.

78. *Hener*, 525 F. Supp. at 356.

alarm, it also ensures that more wrecks are sought and discovered. In reforming the current state of the law, the international community must balance these concerns with the positive incentives the law of finds creates.

V. EXISTING STATUTORY SCHEMES

The United Nations Convention on the Law of the Sea (“UNCLOS”)⁷⁹ governs the international disposition of shipwrecks, and the Abandoned Shipwreck Act (the “ASA”)⁸⁰ governs the national disposition. The two laws vary greatly in their applicability and the manner in which they treat ownership rights for shipwrecks.⁸¹ Although the ASA is not applicable to wrecks found in international waters, it provides an alternative approach to the traditional laws of salvage and finds.

A. UNCLOS

The present state of international sea law is embodied in UNCLOS,⁸² which is the only treaty to establish rights to shipwrecks found in international waters.⁸³ UNCLOS delineates the rights of nations within five distinct areas of jurisdiction: (1) the territorial sea,⁸⁴ (2) the contiguous zone,⁸⁵ (3) the exclusive economic zone,⁸⁶ (4) the continental

79. UNCLOS, *supra* note 1.

80. Abandoned Shipwreck Act, 43 U.S.C. §§ 2101–2106 (2000).

81. The ASA, passed by Congress, is binding upon U.S. courts. The United States has not signed UNCLOS, although the treaty is currently in effect. *See infra* note 82.

82. UNCLOS entered into force on November 16, 1994. Division of Ocean Affairs and the Law of the Sea, Office of Legal Affairs, *Table recapitulating the status of the Convention and of the related Agreements, as at 16 July 2008*, available at http://www.un.org/Depts/los/reference_files/status_2008.pdf.

83. Anne M. Cottrell, Comment, *The Law of the Sea and International Marine Archaeology: Abandoning Admiralty Law to Protect Historic Shipwrecks*, 17 FORDHAM INT’L L.J. 667, 671 (1994).

84. UNCLOS, *supra* note 1, arts. 2, 3. Under UNCLOS, the sovereignty of a coastal state extends up to twelve nautical miles. *Id.*

85. *Id.* art. 33. The contiguous zone extends out to twenty-four nautical miles. *Id.* Within the contiguous zone, a nation may exercise limited jurisdiction in order to “(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea; (b) punish infringement of the above laws and regulations committed within its territory or territorial sea.” *Id.*

86. *Id.* art. 56. Within the exclusive economic zone, coastal states have:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.

Id. The exclusive economic zone can extend as far as two hundred nautical miles. *Id.* art. 57.

shelf,⁸⁷ and (5) the high seas.⁸⁸ Under UNCLOS, “[n]o State may validly purport to subject any part of the high seas to its sovereignty.”⁸⁹ Because no sovereign has rights to wrecks found on the high seas, this Note focuses only upon those provisions governing wrecks on the high seas.⁹⁰ UNCLOS addresses the issue of shipwrecks found on the high seas in Articles 149 and 303.⁹¹ Article 303 advances the general principle that all States must cooperate “to protect objects of an archaeological and historical nature found at sea,”⁹² while Article 149 states that

[a]ll objects of an archaeological and historical nature found in the Area⁹³ shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.⁹⁴

Under the UNCLOS provisions, neither the law of finds nor the law of salvage are abrogated. “While Article 149 does not explicitly state that the law of finds rules the discovery of historic shipwrecks in the Area, commentators have suggested that the law of finds is implied because there is no alternative ownership principle delineated in the provision.”⁹⁵ Nor does Article 303 override the existing legal options. It states instead that “[n]othing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.”⁹⁶ Consequently, if a wreck is found on the high seas, the finder/salvor must still go through the same process of adjudicating his or her claim either under finds law or salvage law. If the owner is known, and salvage law is applied, then Article 303 fails to

87. *Id.* art. 76 (establishing limit of continental shelf). “The rights of the Coastal State over the continental shelf do not affect the legal status of the superjacent waters” *Id.* art. 78(1).

88. The high seas include “all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State.” *Id.* art. 86.

89. *Id.* art. 89.

90. The scope of this Note is limited to wrecks in international waters and the laws governing those wrecks. Because coastal states can exert varying degrees of sovereign rights over waters within 200 miles of the coast, the laws of those coastal states can influence the disposition of shipwrecks found in those areas, and are, accordingly, beyond the scope of this Note.

91. *Id.* arts. 149, 303.

92. *Id.* art. 303. “States have a duty to protect objects of an archeological and historical nature found at sea and shall cooperate for this purpose.” *Id.*

93. UNCLOS defines the Area as “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.” *Id.* art. 1.

94. *Id.* art. 149.

95. Cottrell, *supra* note 83, at 704.

96. UNCLOS, *supra* note 1, art. 303.

apply.⁹⁷ If the wreck is abandoned, then the lack of guidance in Article 149 suggests that the law of finds must still apply. The end result is that the UNCLOS provisions concerning shipwrecks in international waters do little to impinge on the applicability of the law of finds and the law of salvage.

UNCLOS does not effectively secure the preservation of wrecks found on the high seas. While Article 149 discusses preservation, it fails to define “objects of an archaeological and historical nature.”⁹⁸ Moreover, since Article 303 cannot affect ownership rights, it cannot effectively operate in the presence of an ownership claim.⁹⁹ The goals of preservation conflict with the property rights affirmed in Article 303.¹⁰⁰ As far as preservation is concerned, under UNCLOS, “[i]t is clear that the best protection the [U.S.] government can offer a sunken vessel in international waters is a statute that protects the shipwreck from American salvors and obligates the government to enter into treaties with foreign nations to respect the archaeological value of the wreck.”¹⁰¹

UNCLOS does provide for the creation of an administrative body: The International Seabed Authority (the “Authority”).¹⁰² This Authority is intended to “organize and control activities in the Area.”¹⁰³ Currently, it addresses issues of mining and exploration.¹⁰⁴ Although UNCLOS does not empower anybody to dispose of shipwrecks, if such power were granted, the Authority would be the logical body to administer it.¹⁰⁵

97. *Id.*

98. *Id.* art. 149. “The Convention’s marine archaeology provisions, articles 149 and 303, do not define ‘objects of archaeological and historical nature.’” Cottrell, *supra* note 83, at 703.

99. Article 303 states that “[n]othing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.” UNCLOS, *supra* note 1, art. 303.

100. See Abbass, *supra* note 23, at 261 (discussing some of the points of conflict between archaeologists and salvage lawyers).

101. Kahn, *supra* note 28, at 638; see also *supra* note 27 (discussing R.M.S. Titanic Maritime Memorial Act of 1985). This act required the United States to enter into international agreements for the protection of the *Titanic*. 16 U.S.C. § 450rr-3 to -4 (2000). “This Act supported [the discoverer’s] wish by preventing alteration, disturbance, and salvage of the *Titanic* and by requiring the United States to enter into international agreements to establish guidelines for the research, exploration and, if appropriate, salvage of the vessel.” Kahn, *supra* note 28, at 637.

102. UNCLOS, *supra* note 1, art. 156. The seat of the International Seabed Authority is in Jamaica. *Id.*

103. *Id.* UNCLOS, *supra* note 1, art. 157.

104. See UNCLOS, *supra* note 1, Annex III.

105. Under article 157, “The Authority is the organization through which State Parties shall, in accordance with this Part, *organize and control activities in the Area*, particularly with a view to administering the resources of the Area.” *Id.* art. 157 (emphasis added). The salvage and recovery of shipwrecks on the high seas is an “activity in the Area.” The “Area” is defined as “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.” *Id.* art. 1.

B. ASA

The ASA, passed in 1987, abrogates traditional salvage and finders law within the territorial waters of the United States.¹⁰⁶ The ASA states:

[T]he United States asserts title to any abandoned shipwreck that is: (1) embedded in submerged lands of a State; (2) embedded in coralline formations protected by a State on submerged lands of a State; or (3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.¹⁰⁷

The purpose of the ASA “was to provide for state regulation of shipwrecks found within state coastal waters, while allowing access to historians and sport divers.”¹⁰⁸ The states are granted control over shipwrecks under the theory that states have a responsibility for the management of certain abandoned wrecks.¹⁰⁹

Under the ASA, the federal government acquires title to any abandoned shipwrecks found in the territorial waters of the United States.¹¹⁰ The ASA immediately transfers title over such wrecks to the state in or on whose submerged lands the shipwreck is located.¹¹¹ In granting to the United States title to all abandoned wrecks found within its territorial waters, the law specifically abrogates the law of finds and the law of salvage by preventing the finders of abandoned shipwrecks from acquiring title.¹¹²

Many ambiguities remain under the ASA. It does not resolve the issue of what constitutes abandonment,¹¹³ and the Supreme Court has done little to resolve this ambiguity.¹¹⁴ The ASA is also not clear as to what

106. 43 U.S.C. § 2106 (2000). Other nations have taken legislative steps to protect historic shipwrecks within their jurisdictions. See Stevens, *supra* note 20, at 588–92, for a brief survey of historic preservation laws in France, Spain, Italy, England, and Australia.

107. 43 U.S.C. § 2105(a).

108. Denise B. Feingold, Note, *The Abandoned Shipwreck Act of 1987: Navigating Turbulent Constitutional Waters?*, 10 U. BRIDGEPORT L. REV. 361, 362–63 (1990) (citing to S. REP. NO. 100–241, at 1 (1987)).

109. 134 CONG. REC. H1177 (1988).

110. 43 U.S.C. § 2105(a).

111. *Id.* § 2105(c); see also *Sea Hunt, Inc. v. Unidentified, Shipwrecked Vessel or Vessels*, 47 F. Supp. 2d 678, 685 (E.D. Va. 1999) (“Title over a shipwreck covered under the ASA is transferred to the State in whose waters the wreck is located.”).

112. Section 2106(a) of the Act states: “The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 2105 of this title applies.” 43 U.S.C. § 2106(a).

113. *Sea Hunt*, 47 F. Supp. 2d at 686 (“The ASA itself does not provide a definition of ‘abandonment.’ Therefore, the Court must look to case law for guidance on determining the status of the shipwrecked vessels in this case.”).

114. See generally Jones, *supra* note 51 (discussing the ambiguities that remain in determining abandonment after the Supreme Court’s decision in *California v. Deep Sea Research, Inc.*, 523 U.S.

constitutes a historic shipwreck, stating that it applies to wrecks that are “historically significant.”¹¹⁵ The Seventh Circuit has identified two methods for determining historical significance for wrecks found in territorial waters.¹¹⁶ “The court first held that ‘embeddedness’ is an indicia of historic significance. Second, the court held that if the shipwreck is eligible to be listed in the National Register, then it is historically significant under the ASA.”¹¹⁷ Further, some have questioned the constitutionality of the ASA on the grounds that it explicitly abrogates the admiralty laws of salvage and finds.¹¹⁸ In doing so, the ASA arguably deprives the federal courts of admiralty jurisdiction and allows the states to adjudicate the disposition of certain shipwrecks under state laws.¹¹⁹

In spite of its shortcomings, the ASA also provides a number of benefits in the realm of preservation. Use of the ASA, as opposed to the law of finds, can prevent valuable historic objects from being reduced “to the personal property of private collectors.”¹²⁰ The traditional law of finds and the interests of preservation are often in conflict.¹²¹ By supplanting the law of finds, the ASA has the potential to resolve this conflict. Under the ASA, the states have the authority to legislate the disposition of historic wrecks and their contents, and the legislative history of the ASA suggests that preservation is one of the goals for the States.¹²² Thus, with that authority comes the responsibility for preserving historic shipwrecks.¹²³

491 (1998)).

115. Stevens, *supra* note 20, at 598. “Congress, under the Act, has transferred to the states title to certain shipwrecks—shipwrecks of historical significance that are located on or embedded in a state’s submerged land.” *Id.*

116. See *Zych v. Unidentified, Wrecked & Abandoned Vessel, Believed to Be the SB “Seabird,”* 941 F.2d 525, 529 (7th Cir. 1991), *modifying* 746 F. Supp. 1334 (N.D. Ill. 1990), *on remand*, 811 F. Supp. 1300 (N.D. Ill. 1992), *aff’d*, 19 F.3d 1136 (7th Cir. 1994).

117. Cottrell, *supra* note 83, at 698.

118. See, e.g., Stevens, *supra* note 20, at 597–98 (“For example, section 2106(a) of the Act provides that ‘[t]he law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 [§ 2105] of this Act applies.’ This disruption of the harmony and uniformity of admiralty law may be grounds for a constitutional challenge.”); see also Feingold, *supra* note 108, at 391–92 (“Article III, section 2 of the Constitution gives an exclusive grant of admiralty jurisdiction to the federal courts. While Congress ‘may make all Laws which shall be necessary and proper’ to carry out the powers of government, Congress does not have the power to pass any legislation prohibited by any other portion of the Constitution.”). It is questionable whether Congress has the power to transfer jurisdiction from the federal courts to the states. *Id.* at 392.

119. “The intent of the statute is to give the states a solid foundation upon which to build a coherent and consistent policy towards shipwreck management and remove the obstacles laid by the inconsistent common law standards that previously existed.” Stevens, *supra* note 20, at 588.

120. Kahn, *supra* note 28, at 596.

121. “The implementation of the law of finds aggravates the conflicting interests of historians and finders of shipwrecks.” *Id.* at 596.

122. See Feingold, *supra* note 108, at 362–63.

123. Kahn, *supra* note 28, at 630. “By releasing control over historic shipwrecks to the states, the

VI. CULTURAL PROPERTY

While cultural property is traditionally defined to include artifacts, such as works of art or antiquities, it can also include physical structures, such as buildings and shipwrecks.¹²⁴ Proponents of cultural property rights are critical of the current legal framework used to adjudicate wrecks on the high seas. They feel it either fails to meet preservation concerns or gives inadequate voice to producers of cultural property.¹²⁵ Some argue for the abandonment of the law of the sea in order to better preserve cultural heritage.¹²⁶

The cultural property rights movement advances the idea that some property is too important to be disposed of according to the current laws of property.¹²⁷ The interests of mankind are not adequately represented by the current framework because only owners, finders, or governments have standing to assert a claim.¹²⁸ Precious artwork presents one example where the abrogation of traditional property law has been important. Following World War II, the cultural property movement began as a response to the destruction and looting of artwork in Europe.¹²⁹ “The destruction of irreplaceable historic sites due to bombings in World War II, and the loss of many thousands of artworks through World War II looting, prompted the development of new laws seeking to protect ‘cultural property.’”¹³⁰ In

ASA absolves itself of responsibility for these archaeological finds. The states, by implication, become the parties responsible for the protection of historic shipwrecks.” *Id.* It is unclear whether the states are any better prepared than the federal government to address the issues arising out of the discoveries of shipwrecks in state territorial waters.

124. Stephanie O. Forbes, Comment, *Securing the Future of Our Past: Current Efforts to Protect Cultural Property*, 9 TRANSNAT’L LAW. 235, 239–40 (1956).

125. See Kahn, *supra* note 28, at 630–38 (providing a number of cases in which finders or the government were granted title to sunken shipwrecks, which prevented efforts by preservationists to keep the recovered artifacts in a single collection); see also *supra* note 101 (discussing statutory protections for shipwrecked vessels).

126. See Cottrell, *supra* note 83, pt. 3.

127. A more specific definition of cultural property requires a distinction between the view of “cultural nationalism” and “cultural internationalism,” as discussed below.

128. See Mark F. Lindsay, Note, *The Recovery of Cultural Artifacts: The Legacy of Our Archaeological Heritage*, 22 CASE W. RES. J. INT’L L. 165, 165 (1990). “It is well recognized in international law that since art is part of the cultural history of all states, conventional property concepts do not automatically apply.” *Id.* However, when a government asserts a claim to an ancient shipwreck, it is asserted as the successor owner of the vessel, not as the source of cultural heritage. This difference means that, while a government may acquire title to its lost shipwrecks, it does so within the traditional owner/finder framework.

129. M. June Harris, *Who Owns the Pot of Gold at the End of the Rainbow? A Review of the Impact of Cultural Property on Finders and Salvage Laws*, 14 ARIZ. J. INT’L & COMP. L. 223, 234 (1997).

130. *Id.*

the context of cultural property, there is a distinction between historic preservation and cultural property rights.¹³¹ While the two usually overlap, the manner in which cultural property is defined can create a difference in purpose between the two policies.

There is no consensus as to how cultural property is defined.¹³² One view urges cultural internationalism, which holds that some property has importance for all of humanity.¹³³ An opposing view is cultural nationalism, which holds that some property is particularly important to a specific nation or culture.¹³⁴ “The differences in the definition of cultural property radically affect how societies view cultural property and its physical placement in the world.”¹³⁵

“Cultural internationalism places more emphasis on the ability of a nation to preserve artifacts rather than on its cultural affiliation with the object.”¹³⁶ Marine archaeologists who seek to preserve artifacts for study by mankind, as opposed to the nation or culture of origin, would espouse such a view. Taken to an extreme, cultural internationalism precludes individual ownership of property deemed to be of historical value. One radical approach “calls for the establishment of a distinct international

131. Historical preservation is more concerned with the treatment of historical objects and their protection than with the issue of ownership. Historical preservation can be associated with academic pursuits such as the study of historic objects for the advancement of science, art, etc. In contrast, cultural property may present broader policy concerns of national ownership, cultural heritage, and international access. See *infra* notes 134 and 141.

132. See Harris, *supra* note 129, at 235–37, for a more detailed discussion of the distinctions between cultural internationalism and cultural nationalism, and the tension between the two viewpoints in multilateral treaties; see also Kahn, *supra* note 28, and Anastasia Strati, *Deep Seabed Cultural Property and the Common Heritage of Mankind*, 40 INT’L & COMP. L.Q. 859 (1991), for discussions of historical preservation in the context of sunken shipwrecks and the impact of preservation law on property rights.

133. See Harris, *supra* note 129.

134. An advocate of the importance of national culture states,

Nowadays, where technology and mass communication tend to create an “international” culture, it is of primary importance to identify “national” cultural heritage. The co-existence of separate cultures is inevitable and it is precisely this co-existence of the various cultures which can furnish the substructure of a universal culture. All peoples have original cultures that are worthy of safeguarding. On top of this, the notion of universal heritage declares that those particular items of the cultural and the natural heritage that are of exceptional interest must be preserved as a component of the world heritage.

Strati, *supra* note 132, at 861. This commentator, in addressing the dichotomy between national and international cultural heritage, demonstrates the difficulty in arriving at a common definition for cultural heritage. One’s view of cultural heritage affects the underlying purpose of any cultural property arguments. Support for the preservation of national cultural heritage naturally dovetails into the attribution of ownership of cultural property to the culture from which it originated. See *infra* note 142.

135. Harris, *supra* note 129, at 235.

136. *Id.* at 236.

cultural heritage, a new sort of property, administered by an international agency, and made available to all persons to enjoy.”¹³⁷ Under such a view, cultural property “‘belong[s]’ to all peoples.”¹³⁸

Many object that such a notion ignores that “the cultural heritage is always associated with a given people, and it is not possible to consider it outside this context.”¹³⁹ Cultural internationalism places little value on the location of the property, so long as there is access for all. “This view of cultural property renders unimportant the claim that the culture that produced the object should control it, as long as others have the opportunity to see and appreciate the treasure.”¹⁴⁰ In other words, cultural internationalism emphasizes access over ownership.¹⁴¹ So long as the property can be viewed and studied by all, it is irrelevant where it is placed.

In contrast, the idea of cultural nationalism¹⁴² grants greater weight to claims by producers of cultural property.¹⁴³ Under this view, nations are divided between art-rich and art-poor nations.¹⁴⁴ Art-rich nations “produce much of the world’s art,” while art-poor nations import their art.¹⁴⁵ “[T]he

137. Strati, *supra* note 132, at 860.

138. *Id.*

139. *Id.* Further, “Cultural property is the product of given socio-economic and political processes and should, therefore, be considered in terms of social realisations rather than aesthetic appreciations.” *Id.*

140. Harris, *supra* note 129, at 236.

141. *Id.* Cultural internationalism is a viewpoint easily associated with the archaeological community. The priority is to preserve historical objects for study. In order to achieve this goal, there must be adequate access for scholars to study the property.

142. One commentator offered the following definition of cultural property, consistent with the idea of cultural nationalism:

Cultural property reflects a specific culture’s unique understanding of natural forces as well as supernatural forces. Cultural property also reflects a culture’s unique understanding of human relationships to each other and to these forces. Objects of cultural property are invested with historical and theological information, exploring simultaneously the visible and the conceptual worlds. Such objects are often central to the understanding of a particular culture. Cultural property, therefore, uniquely represents the identity of a culture in terms of a people’s concept of themselves, these forces and their relationships.

Robin A. Morris, *Legal and Ethical Issues in the Trade in Cultural Property*, 21 N.Z. L.J. 40, 40 (1990); *see also* Harris, *supra* note 129, at 237.

143. Harris, *supra* note 129, at 237.

144. *See id.* at 237. The dispute between Great Britain and Greece concerning ownership of the Elgin Marbles is an example of the case for cultural nationalism. *Id.* at 239. The Elgin Marbles were removed from the Ottoman Empire between 1801 and 1812, but no request was made for their return until 1983. *Id.* at 239. Interestingly, the Marbles were originally removed with the permission of the Ottoman Empire. *Id.* Greece argued that, in spite of the legal purchase of the Marbles, it still possessed cultural property rights that transcended ordinary property rights. *Id.* To date, the British Museum still contains the Elgin Marbles, although Greece has specially built a museum to house antiquities from the Parthenon. *See* <http://www.newacropolismuseum.gr/eng/> (last visited Aug. 26, 2008).

145. Harris, *supra* note 129, at 237; *see also* Lindsay, *supra* note 128, at 166–68. Greece is an

importance of the object to a particular culture should determine ownership rights in an object because the cultural nationalism view sees the object as important to a particular culture as a symbol which unites them with a common heritage and identity.”¹⁴⁶ Consequently, the physical location of the object is of great importance.

Under a theory of cultural nationalism, cultural property should be repatriated to the nation that values that property.¹⁴⁷ In *Odyssey*, this means that the Kingdom of Spain might assert a claim if the sunken vessel previously sailed under the Spanish flag. Concurrently, the nation whose culture is represented in the cargo can also assert a claim. For example, Peru might have a claim if the silver coinage originated there.¹⁴⁸

UNCLOS includes provisions for the preservation of cultural property;¹⁴⁹ however, UNCLOS is ambiguous as to which view of cultural property it adopts. Article 149 begins with an expression of cultural internationalism: “All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole”¹⁵⁰ Article 149 continues, however, by giving preference to “the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.”¹⁵¹ Such a preference supports a view of cultural nationalism.

The applicability of international agreements to wrecks on the high seas is questionable because no nation may assert sovereignty over international waters.¹⁵² “International agreements on cultural property . . . are generally limited to national territory, although provisions in them for international cooperation are perhaps of some normative significance.”¹⁵³

example of an art-rich nation. Greek antiquities have been removed by other nations and scattered throughout the world. The term “art-rich” is not intended to imply wealth, but rather to connote a producer and exporter of cultural property. The export is not necessarily voluntary.

146. Harris, *supra* note 129, at 237.

147. UNCLOS does not specify which culture has the primary claim to artifacts lost at sea. Preferential rights are to be granted to “the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.” UNCLOS, *supra* note 1, art. 149. UNCLOS does not provide any means of distinguishing which of these three groups, if placed in conflict, has the stronger right. It is also unclear how such a determination would be made.

Some find that cultural nationalism’s emphasis on repatriation carries negative connotations, harking back to such policies as Nazi Germany’s collecting of “Aryan” artwork to be brought back to Germany. See Harris, *supra* note 129, at 238.

148. Editorial, *supra* note 31.

149. UNCLOS, *supra* note 1, arts. 149, 303.

150. *Id.* art. 149.

151. *Id.*

152. *Id.* art. 89; see also *supra* note 89 and accompanying text.

153. James A.R. Nafziger, *Finding the Titanic: Beginning an International Salvage of Derelict Law at Sea*, 12 COLUM.-VLA J.L. & ARTS 339, 344–45 (1987).

The jurisdiction of coastal states under UNCLOS extends only to objects found within twenty-four miles of the coastline.¹⁵⁴ Objects found on the high seas are not subject to any state's jurisdiction, so the protection under Articles 149 and 303 is less extensive.

VII. PROPOSAL

Laws, such as the ASA, that abrogate traditional maritime property rights have the benefit of strengthening preservation efforts for historic wrecks. However, they can also limit the incentives to locate lost shipwrecks.¹⁵⁵ "States have enacted legislation that severely limits the recovery of sunken treasure."¹⁵⁶ These shifting incentives will drive treasure hunters to search for wrecks to which they can assert a claim, such as shipwrecks found on the high seas. National historic preservation laws that apply within territorial waters may have the adverse effect of "dooming those valuable archaeological finds that are beyond the reach of state law"¹⁵⁷ because there is no significant protection for wrecks found on the high seas.

Resolving the issue of ownership would do much to address these preservation concerns. Currently, in order to acquire title to abandoned property, a finder must first recover some of that property to bring before the court.¹⁵⁸ Such recovery can jeopardize the archaeological integrity of shipwreck sites. A clear statutory scheme for determining ownership would remove the need for potentially destructive recovery operations otherwise used to establish ownership. An abrogation of traditional finds and salvage laws, as they apply to shipwrecks on the high seas, would provide a basis for protecting the historical and cultural value of these shipwrecks found beyond the territorial waters of any nation.¹⁵⁹ However,

154. Strati, *supra* note 132, at 863 & n.16 and accompanying text.

155. Kahn, *supra* note 28, at 641. "By reducing all shipwrecks within state territorial waters to state-owned property, incentives to invest time or money have foundered." *Id.*

156. *Id.*

157. *Id.* Kahn posits that private treasure hunters will have no incentive to preserve the historical integrity of sunken shipwrecks or their contents. *Id.* For example, objects that are of value to science may not have any market value to treasure hunters or collectors. The result would be that treasure hunters would only focus on recovering the intrinsically valuable items (coins, armaments, etc.) and would ignore or destroy the remainder. "Salvors are most likely to be interested in the recovery of bullion, armaments, and other high-value artifacts. Historians, however, . . . are also interested in cookware, clothing, human remains, and the vessels themselves." *Id.* at 599.

158. This element of control is necessary for the court to establish in rem jurisdiction over the property. *See supra* note 68.

159. Due to the extraterritorial nature of such wrecks, no nation has the power to subject the sites to its sovereignty. *See UNCLOS, supra* note 1, art. 89. The United Nations must legitimize any

in order to be successful, any such reforms must include an incentive mechanism to remedy the inherent problem of the ASA, namely the disincentive to search for and recover lost shipwrecks and their treasures.

In order to remedy the conflicts among finders/salvors, owners, preservationists, governments, and proponents of cultural property, the United Nations should amend UNCLOS to add the following: (1) a statute of limitations to ownership claims for shipwrecks located in international waters; and (2) a mechanism for the repatriation of cultural property (excluding coinage and armaments)¹⁶⁰ that delineates a clear hierarchy among the nation of origin, the nation of cultural origin, and the nation of historic and archaeological origin.¹⁶¹

A. *Statute of Limitations*

UNCLOS should be amended to extinguish ownership claims to shipwrecks in international waters after 100 years.¹⁶² The provision would declare that a wreck is legally abandoned after the passage of 100 years.¹⁶³

alteration to the existing law.

160. Coins and armaments should not be included because they traditionally have the most monetary value of any portion of the wreck. By allowing finders to keep these items, the financial incentives for recovery would be maintained. This is a compromise position between granting finders full title and requiring repatriation of all the artifacts. In addition, the coins and armaments arguably have less “cultural” significance than artwork or other recovered items. This division would allow both finders and cultures to keep that which they value most. According to one commentator, “Salvors are most likely to be interested in the recovery of bullion, armaments, and other high-value artifacts.” Kahn, *supra* note 28, at 599.

161. The procedure for amending UNCLOS is addressed in articles 312 through 316. Since these proposed amendments exclusively address activities in the Area, article 314 applies, requiring that “[t]he proposed amendment shall be subject to approval by the Assembly following its approval by the Council.” UNCLOS, *supra* note 1, art. 314. Additionally, the amendment must not “prejudice the system of exploration for and exploitation of the resources in the Area,” subject to the Review Conference. *Id.* Once an amendment is adopted, it must be ratified by two-thirds of the State Parties or by sixty State Parties, whichever is greater, within twelve months of its adoption. *Id.* art. 316.

162. The 100-year limitations period is a compromise between two extreme positions. If the period is too short, then there is insufficient time for owners to mobilize resources for recovery. If the period is too long, then material is less likely to be recoverable. See *infra* note 164 (describing different lengths for existing statutes).

163. The statute would begin to run from the date that a ship sinks. Preservationists might raise a concern that, in the case of wrecks nearing the end of the limitations period, there would be a frantic attempt to locate and recover the wreck in a manner that does not conform to archaeological standards. This concern is without merit for a number of reasons. The statute of limitations will only extinguish the claims of the owner. While he or she might feel an added pressure to recover his or her vessel before the statute runs, everyone else would have an incentive to wait until just after the statute runs. Additionally, the statute’s primary purpose is to encourage owners to search for and recover their wrecks. The haste needed to locate the sunken shipwreck does not imply that such haste need be made in the recovery efforts. As in the current framework, a completely successful salvage would not be necessary to assert ownership in American courts. An owner would need only show control over the

The law would mandatorily apply to all wrecks of the requisite age, and the effect would be to forcibly apply the law of finds.¹⁶⁴ This statute of limitations would be subject to the repatriation provisions discussed below.

Extinguishing ownership claims to older wrecks would incentivize recovery of the wrecks by eliminating the need for costly litigation.¹⁶⁵ If a finder is assured title to any shipwrecks of a certain age, then he or she can devote greater resources to search and recovery and fewer to litigation. Such a limit would also resolve the ambiguities in the definition of abandonment that have plagued the ASA.¹⁶⁶ So long as the age of the wreck could be determined, there would be no need to litigate the issue of abandonment.¹⁶⁷

Such an amendment would extinguish the claims of governments to their ancient wrecks. In *Odyssey*, for example, Spain would not be able to

site of the wreck and the ability to affect some recovery. See *supra* notes 67–68 and accompanying text.

164. There is legal precedent for imposing time limits on shipwreck claims. Several states have enacted time limits within their jurisdictions. Kahn, *supra* note 28, at 642. North Carolina deems a vessel that is left unclaimed for ten years to be abandoned and grants title to the state. N.C. GEN. STAT. § 121-22 (2007). Massachusetts asserts ownership over wrecks that are unclaimed for at least a hundred years. MASS. GEN. L. ch. 6, § 180 (2006).

165. In addition to the incentives for finders to search for lost wrecks, owners would have additional incentives to locate their shipwrecked vessels. The statute of limitations would eliminate owners' ability to remain idle while waiting for someone else to locate their property. The incentive for owners to locate their wrecks might also have the effect of spurring technological innovation in the field of deep-sea search and recovery equipment. While an individual vessel might not contain enough value to make such investment feasible, owners of multiple shipwrecks would have cause to invest. The best example would be maritime insurers. Upon the loss of a ship, insurers usually pay out the policy, and in the process, acquire title to the ship. As an institutional owner, an insurance company would face the greatest incentive to invest in recovery, lest its ownership claims be extinguished by the statute of limitations.

166. See *supra* note 113.

167. The issue of age would still require litigation in marginal cases. This raises the question of how such determinations would be made. Since a court is capable of fact-finding, it is capable of making such determinations based upon evidence. There are two possible scenarios that a court might face: one in which the identity of the ship is known, and the other when the name is a mystery.

If the ship's name is known, then it is likely that the date of loss is also known. Even with a known vessel, disagreement over the date of loss is still possible. However, the court is capable of hearing evidence and issuing a finding on the date of loss.

In the event that the ship's name is not known, then there will be a need to date the wreck based upon scientific evidence. It could be argued that if the identity is not known, then there would not be an owner to intervene, thus mooted the issue. While this argument is logical, *Odyssey* is an example where an owner intervened on the possibility that the unknown ship belonged to Spain.

Whether the burden of proof lies with a finder or an intervening owner is a question that the courts would need to answer. Presuming that the ship is young until proven old would be a sensible rule. In other words, the rebuttable presumption would be that an owner maintains his or her rights unless the evidence indicates that the ship is of the requisite age. Such a rule would also add incentive for innovations in technology to accurately date sunken shipwrecks.

assert a claim as successor owner of the shipwreck if the wreck is determined to be greater than 100 years old.¹⁶⁸ Because this effect would undoubtedly be unpalatable to many governments, additional incentives would be needed to ensure support in the United Nations.¹⁶⁹

B. Limited Repatriation

In order to secure support for the time limitation, UNCLOS should be further amended to provide for the repatriation of cultural property recovered from shipwrecks on the high seas, exclusive of coinage and armaments. To secure this end, UNCLOS should include a right for nations to acquire their cultural property from the finders who successfully recover artifacts.¹⁷⁰ Finders would receive a salvage award for their efforts, with greater amounts being paid to the finders who observe proper archaeological techniques in their recovery efforts.¹⁷¹ The amount of the salvage award would be determined by the Authority, applying the same criteria currently used by courts in making such determinations.

In defining cultural property, the amendment should favor a cultural nationalism definition, whereby the ultimate destination of the recovered property will be important. More than one group may wish to assert a claim, and in determining which group has the strongest claim to the cultural property, the Authority should provide a platform for bilateral or multilateral negotiations among the nation of origin, the nation of cultural origin, and the nation of historic or archaeological origin.¹⁷² The

168. Spain would not be without recourse to assert a claim. Spain simply would not be able to base its claim upon its status as successor-owner of the vessel. Spain would still be able to pursue a claim based upon its cultural property rights. *See infra* note 172 and accompanying text.

169. National governments would probably stand to lose the most by the implementation of this provision. A statute of limitations would extinguish governments' claims to their own vessels and warships after the requisite amount of time. The limited repatriation provision, discussed below, is intended to alleviate some of the negative incidence this provision would otherwise inflict upon governments. *See infra* notes 170–78 and accompanying text.

170. The term “artifact” here is intended to include all property other than coins or armaments. Any other items recovered from a shipwreck, including pieces of the wreck itself, would fall under this category.

171. Due to the concerns of preservationists, a sliding scale for awards would be necessary to ensure that finders respect the historic value of their finds. The award would add worth to the artifacts and wrecks that otherwise do not have market value to the finder. Thus, there would be an incentive for the finder to skillfully recover the entirety of the wreck rather than simply the precious metals. It goes without saying that the salvage award would not cover any coins or armaments recovered, as the finder would already receive title to these items. The salvage award would only apply to those items subject to repatriation.

172. It is very possible that, in most cases, these three groups would be one and the same. The negotiation system would not be needed in such a case, and the Authority would proceed to determine the salvage award using the same criteria as are presently employed by courts.

competing claimants should then determine the distribution of the property,¹⁷³ and the property should subsequently be repatriated. However, in exchange for repatriation of the property, such nations should be required to guarantee access to all. Further, the international scientific community should be given the right to study any property recovered from shipwrecks in international waters.

The benefits of such an amendment would be numerous. By granting nations the right to acquire title to their cultural property, the amendment would hopefully garner support among the art-rich nations¹⁷⁴ of the world, which have historically exported their art. Guaranteeing access for scientific research would grant the international scientific community the same benefits as if the treaty had adopted a cultural internationalism rule. Finally, the compensation provision would ensure that finders still have the incentives to recover artifacts that otherwise lack market value.¹⁷⁵

Administration of these amendments should be entrusted to the Authority already established under UNCLOS.¹⁷⁶ The Authority should be charged with overseeing the preservation efforts of finders and setting the remuneration awards if a nation chooses to exercise its purchase rights.¹⁷⁷ The amendments would only apply to shipwrecks found in international waters, so they would not alter the rights of sovereigns within their own territorial waters.

These amendments would have the benefit of incentivizing the recovery of long-lost shipwrecks and their treasures, while simultaneously providing a mechanism for the repatriation of cultural property. One

173. The Authority would be responsible for approving any negotiated settlement between the parties, in addition to all other administrative matters arising under these provisions. *See* UNCLOS, *supra* note 1, art. 157(2) (“The powers and functions of the Authority shall be those expressly conferred upon it by this Convention.”). The claimants would be responsible for the salvage award. In the event that there are no claimants, then the finder/salvor would receive title to the property.

174. The term “art-rich nations” refers to those countries which have traditionally produced cultural property that has subsequently been exported, either by choice or by force. *See* Harris, *supra* note 129, at 237. An example would be Egypt, whose antiquities have been removed to museums around the world.

175. Some proponents of preservation argue that the act of salvaging a shipwreck actually places the site in marine peril. They argue instead for “on-site preservation” rather than salvage. *See, e.g.,* Varmer, *supra* note 24, at 287 (“It clearly would be preferable to be able to study the objects where they were found.”). However, no American court yet agrees with this position.

176. UNCLOS, *supra* note 1, art. 157. The membership of the Authority is governed by article 156, which states, “All State Parties are *ipso facto* members of the Authority.” *Id.* art. 156.

177. One commentator has suggested that the government should acquire title to all the artifacts salvaged and that salvors should be paid some fixed percentage of the value of the artifacts they recover. Del Bianco, *supra* note 3, at 174. Similarly, by providing a specialized adjudicative body, the Authority would remove the need to involve American federal courts in the establishment of salvage awards.

criticism of statutes such as the ASA, which divest owners of their rights, is that the cost and burden of recovery fall on the states, which have limited budgets.¹⁷⁸ These amendments would address such concerns by placing the burden of recovery on salvors, who have the expertise and the incentive to locate and recover shipwrecks. Treasure hunters would still have an interest in finding shipwrecks, but the scientific community would also have access to their finds. By providing for repatriation, with a requirement for open access, the amendments would save cultural nationalists and scientists from the task of tracking down artifacts and acquiring them from private owners.

C. *Return to Odyssey*

If the above recommendations were implemented, how would Odyssey's find and claim be resolved under the new international regime? The first issue would be to determine the age of the vessel. Given the quantity of coins recovered, as well as any other material retrieved, it should be possible to determine the age of the wreck. Assuming, as Spain suspects, that the shipwrecked vessel is the *Nuestra Señora de las Mercedes*, then Spain's ownership claim would be extinguished due to the statute of limitations.¹⁷⁹ The law of finds would apply, entitling Odyssey Marine Exploration to title in all the coins and armaments recovered. The remaining artifacts¹⁸⁰ would be subject to the repatriation provision outlined above. Conceivably, Spain would wish to assert a claim to the remaining cultural property; however, Peru or other nations might also have claims.¹⁸¹ The disposition of those artifacts would be determined by the negotiation procedure available through the Authority. Any salvage award would be paid to Odyssey by the nation receiving the property. In exchange, Odyssey would need to verify to the Authority that proper archaeological procedures were followed in the recovery efforts.

178. "Treasure salvors and their investors perform a service that the federal government is unwilling to undertake, yet that costly service must be paid for somehow." Joseph C. Sweeney, *An Overview of Commercial Salvage Principles in the Context of Marine Archaeology*, 30 J. MAR. L. & COM. 185, 201-02 (1999).

179. The *Nuestra Señora de las Mercedes* was sunk in 1804. Anderson, *supra* note 38. The statute of limitations for Spain's ownership claim would have expired 100 years from that time, in 1904.

180. It has been reported that in addition to gold and silver coinage, Odyssey recovered artifacts, but the exact nature of the artifacts recovered is unknown. Aguayo, *supra* note 32.

181. Such a claim assumes, as one commentator has, that some of the artifacts originated in Spain's New World colonies. Editorial, *supra* note 31.

VIII. CONCLUSION

With the advent of more sophisticated technology for the search and recovery of deep-sea shipwrecks, the issue of ownership of wrecks on the high seas has achieved increasing prominence. The present conflicts among finders/salvors, owners, governments, preservationists, and cultural property advocates show the inadequacy of the current laws governing shipwrecks in international waters. The case of *Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel*¹⁸² demonstrates the need for reform of this antiquated area of law.

In furtherance of such reform, this Note suggests an amendment to the United Nations Convention on the Law of the Sea that would (1) relieve the need for litigation in order to determine ownership to ancient wrecks, (2) incentivize the discovery and retrieval of ancient wrecks, and (3) provide a mechanism for the repatriation of cultural property. By achieving these goals, such an amendment would promote the discovery and retrieval of ancient shipwrecks on the high seas, spur the development of more sophisticated deep-sea technologies, ensure scientific access to archaeological material, preserve historic value, and promote cultural property. These benefits would come at the cost of clarifying the muddy waters of salvage and finds laws. Treasure hunters would be able to keep their coins, while archaeologists and preservationists would be able to study their artifacts without having to privately acquire them from disparate collections. For minimal cost, nations have an opportunity to clarify the state of shipwreck law so as to benefit all interested parties.

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182. *Odyssey Marine Exploration, Inc. v. Unidentified, Shipwrecked Vessel*, No. 8:07-CV-00616 (M.D. Fla. filed Apr. 9, 2007).

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